IN THE

Supreme Court of the United States

No. 441.—October Term, 1938.

The Electric Storage Battery Company, *Petitioner*,

v.

Genzo Shimadzu and Northeastern Engineering Corporation, *Respondents*.

RESPONDENTS' REPLY TO PETITIONER'S APPLICATION FOR REHEARING.

Petitioner's application for rehearing is limited (footnote, p. 1) solely to Point I of its original petition for writ of certiorari—*i. e.*, the right of respondents to prove and rely upon the actual dates of invention in a foreign country, instead of being arbitrarily limited to an artificial date such as the date of the introduction of the invention into the United States.

Unlike the petition for correction of opinion and rehearing filed by respondents, the petitioner's application for rehearing merely reiterates matters already considered. It does not point to any matter overlooked or misapprehended, nor adduce any new statute, clause of a statute, any new decision, any new argument or thought not already pre-

sented to and fully considered by this Court upon the briefs and argument.

The opinion of the Court herein of April 17, 1939, fully considers the various applicable patent statutes, their legislative history, and the decisions thereunder, together with the policy and intent of the Congress in adopting those statutes. The petition merely asks the Court to retrace the ground it has already covered.[1]

Respondents need not here repeat the answers to the matters raised in petitioner's present application. The three points now urged are fully answered in respondents' briefs on file with this Court. Point I, as to the policy of the law, is fully covered in respondents' main brief, more particularly pp. 21-22, and 29-32. Point II, as to the interpretation of R. S. §4886, is answered in respondents' main brief, pp. 10-18, 23, *et passim;* reply brief, pp. 2-7; and as to no dedication,[2] main brief, pp. 26-27. Point III, as to the effect of the Nolan Act, is answered in respondents' main brief, p. 24.

Respectfully submitted,

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[1] Thus, the present petition now tacitly concedes, p. 8, that the words "in this country" should be interpolated by judicial construction into R. S. §4886, notwithstanding the Congress itself has refused so to amend the statute. As this Court said in its opinion of April 17, 1939, "We cannot thus rewrite the statute."

[2] In *Kendall* v. *Winsor*, 21 How. 322, there was no dedication to the *public*, but to another *inventor*.